

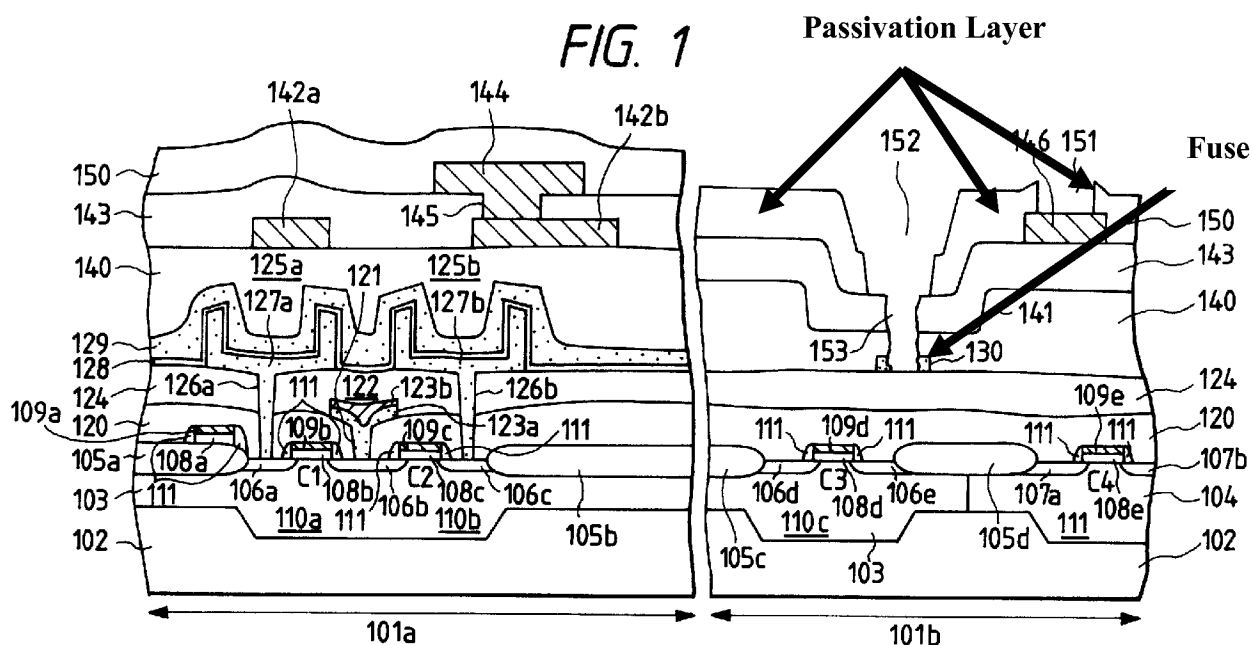
REMARKS

Claims 1-7, 9, 11-18, 20 and 21 are pending.

Claim Rejections

Claims 1, 2, 9, 11, 12, 17, 18, 20, and 21 are patentable under 35 U.S.C. 102(b) over Kono (U.S. 5,972,756).

Applicants respectfully submit claims 1, 2, 9, 11, 12, 17, 18, 20 and 21 are patentable under 35 U.S. 102(b) over Kono because Kono fails to teach all features of the claims, especially the features of independent claims 1, 11 and 18. For example, Kono fails to teach [forming] a fuse overlying a passivation layer. Instead, Kono teaches a fuse under a passivation layer.



As illustrated above in Kono's FIG. 1 (with text labels added for convenience), Kono's fuse (element 130) is under Kono's passivation (element 150). For at least this reason Kono fails to teach all features of claims 1, 2, 9, 11, 12, 17, 18, 20 and 21.

Furthermore, Kono's layer 124 is not a passivation layer, as the Examiner contends. Instead, "Reference numeral 124 denotes an inter-layer insulating film of a TEOS oxide film simultaneously formed on the entire surface of the inter-layer insulating film 120." (See 4th

paragraph under Description of the Preferred Embodiments section.) Kono later states, “Reference numeral 150 denotes a passivation film of a silicon nitride film (Si.sub.3 N.sub.4) ...” (See 7th paragraph under Description of the Preferred Embodiments section.) The TEOS layers under layers 150 (e.g., layer 124) are not passivation layers. First, the passivation layer serves a different purpose than the inter-layer insulating films. Second, if Kono meant that any layer other than layer 150 was a passivation layer, Kono would have stated so. Instead, by calling layer 150 a passivation layer and layer 124 an inter-layer insulating film, Kono distinguished the two films from each other. Similarly, Applicants specification makes the same distinction (as would one skilled in the art.)

Claims 3-7 and 13-16 are patentable under 35 U.S.C. 103(a) over Kono (U.S. 5,972,756) in view of Weber (6,218,279).

Applicants respectfully submit claims 3-7 and 13-16 are patentable under 35 U.S. 103(a) over Kono and Weber because the references fail to teach or suggest all features of the claims, especially the features of independent claims 1 and 11, from which claims 3-7 and 3-16 depend. As discussed above, Kono fails to teach, a fuse overlying a passivation layer. Weber in combination with Kono also fails to teach this feature because Weber fails to teach the presence of a passivation layer. Furthermore, Kono and Weber, fail to suggest this feature. Kono teaches away from a fuse overlying a passivation layer, because Kono teaches that the passivation layer is overlying the fuse. For at least this reason, claims 3-7 and 13-16 are patentable over Kono and Weber.

In addition, Applicants wish to remind the Examiner of MPEP 706.04 entitled “Rejection of Previously Allowed Claims.” In previous office actions, claims were noted as allowable but are now rejected. When referring to a rejection of previously allowed claims, MPEP 706.04 states, “Great care should be exercised in authorizing such a rejection.” Applicants submit that Kono’s teachings are cumulative to the prior art already of record and are therefore, confused as to why the allowance of the claims was rescinded.

The Office Action contains numerous statements characterizing the claims, the specification, and the prior art. Regardless of whether such statements are addressed by Applicants, Applicants refuse to subscribe to any of these statements, unless expressly indicated by Applicants.

Applicants earnestly solicit allowance of all pending claims.

If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account 503079, Freescale Semiconductor, Inc.

Respectfully submitted,

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